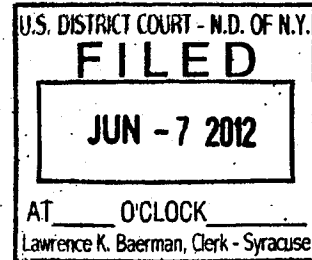


NORTHERN

UNITED STATES DISTRICT COURT
DISTRICT OF NEW YORKMICHAEL GARCIA

(In the space above enter the full name(s) of the plaintiff(s).)



COMPLAINT

under the

Civil Rights Act, 42 U.S.C. § 1983

Jury Trial: Yes ☒ No ☐
(check one)

9:12-cv-924

Defendant No. 1

SERGEANT R. FURNIA

Defendant No. 2

OTHER CORRECTIONAL
OFFICIAL

Defendant No. 3

Defendant No. 4

Defendant No. 5

(In the space above enter the full name(s) of the defendant(s). If you cannot fit the names of all of the defendants in the space provided, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names listed in the above caption must be identical to those contained in Part I. No addresses should be included here.)

I. Parties in this complaint:

- A. List your name, identification number, and the name and address of your current place of confinement. Do the same for any additional plaintiffs named. Attach additional sheets of paper as necessary.

Plaintiff

Name MICHAEL GARCIA
 ID # 04A-1214
 Current Institution CLINTON MAIN CORRECTIONAL FACILITY
 Address PO. BOX 2001
DANBURY NY 12929

- B. List all defendants' names, positions, places of employment, and the address where each defendant may be served. Make sure that the defendant(s) listed below are identical to those contained in the above caption. Attach additional sheets of paper as necessary.

Defendant No. 1 Name SERGEANT R. FURNIA Shield # _____
 Where Currently Employed CLINTON MAIN CORRECTIONAL
 Address FACILITY PO. BOX 2001
DANNEMORA NY. 12929

Defendant No. 2 Name OTHER CORRECTIONAL OFFICIALS Shield # _____
 Where Currently Employed CLINTON MAIN CORRECTIONAL
 Address FACILITY PO. BOX 2001
DANNEMORA NY. 12929

Defendant No. 3 Name _____ Shield # _____
 Where Currently Employed _____
 Address _____

Defendant No. 4 Name _____ Shield # _____
 Where Currently Employed _____
 Address _____

Defendant No. 5 Name _____ Shield # _____
 Where Currently Employed _____
 Address _____

II. Statement of Claim:

State as briefly as possible the facts of your case. Describe how each of the defendants named in the caption of this complaint is involved in this action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not give any legal arguments or cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Attach additional sheets of paper as necessary.

- A. In what institution did the events giving rise to your claim(s) occur? CLINTON MAIN CORRECTIONAL FACILITY
- B. Where in the institution did the events giving rise to your claim(s) occur? E - 1 COMPANY ADMINISTRATIVE
PUNITIVE SEGREGATION KEEP LOCK UNIT CELL # 21
- C. What date and approximate time did the events giving rise to your claim(s) occur? DATED
ON THE 9TH DAY OF JUNE 2011 AT APPROXIMATELY
12:15 AFTER NOON

PLAINTIFF GARCIA 04A-1214 FORMALLY REQUEST
THIS COURT LOCATED AT UNITED STATES NORTHERN
DISTRICT OF NEW YORK JAMES. F. HANLEY
FEDERAL BUILDING 100 S CLINTON STREET
PO. Box 7367 SYRACUSE NY 13261-7367.
TO PLEASE TAKE PLAINTIFF GARCIA STATEMENTS
AND CONCERNS INTO CONSIDERATION AND ALL -
LITIGATION AS WELL ALSO MITIGATING FACTORS.

1. PLAINTIFF GARCIA BRINGS FORTH THIS COMPLAINT
CURRENTLY TO YOUR ATTENTION WITH RESPECT AND
TO YOUR SERVICES AS WELL ALSO JUSTICE IN THE
COURT OF LAW REGARDS TO DELIBERATE, AND
INDIFFERENT CRUEL AND UNUSUAL PUNISHMENT,
AND ALSO STIPULATES CONSTITUTIONAL RIGHTS,
THAT WERE VIOLATED BY CORRECTIONAL OFFICIAL(S)
IN VIOLATION UNDER THE 8TH AMENDMENT -
RIGHT ACTING IN THEIR INDIVIDUAL AND -
OFFICIAL CAPACITY UNDER THE COLOR OF STATE LAW
AGAINST PLAINTIFF GARCIA WHILE CONFINED
IN NEW YORK STATE CLINTON CORRECTIONAL -
FACILITY.

2. PLAINTIFF GARCIA CONSENTS THAT PRIOR GOING
TO THE HEARING THAT WAS COMMENCED AGAINST
HIM ON THE 13TH DAY OF JUNE 2011 AT APPROXIMATELY
7:50 AM.

3. PLAINTIFF GARCIA STATES THAT UPON BEING ESCORTED
FROM OUT OF THE MESS HALL RELEVANTLY RELATING
TO HIS ALLEGED ACTS OF HIS BEHAVIOR DATED:
ON THE 9TH DAY OF JUNE 2011, PLAINTIFF GARCIA
WAS PHYSICALLY ASSAULTED AND BRUTELY BEATEN
WHILE RESIDING HIS PRESENCE AT E-1 COMPANY
CELL # 21 ADMINISTRATIVE PUNITIVE SEGREGATION
KEEP LOCK UNIT). SEE EXHIBIT A
MEDICAL EXAMINATION,
DOCUMENTS

4. PLAINTIFF GARCIA FURTHER MORE STATES THAT THEREAFTER RELATING ON THIS 10TH DAY OF JUNE 2011, PLAINTIFF - GARCIA INSTITUTED HIS GRIEVANCE COMPLAINT ON THE SAME DAY AFTER BEING BRUTELY BEATEN BY CORRECTIONAL SGT. [REDACTED] R. FURNIA AND OTHER CORRECTIONAL OFFICIAL(S) WHO WAS AT PLAINTIFF GARCIA CELL# LOCATION, LOCATED AT E-1 COMPANY CELL# 21 ADMINISTRATIVE PUNITIVE SEGREGATION KEEP LOCK UNIT) IS WERE PLAINTIFF GARCIA WAS LEFT RE-MAINING INSIDE OF HIS CELL# FOR THREE DAYS DELIBERATELY BEING - DEPRIVED MEDICAL ASSISTANCE BY OTHER CORRECTIONAL OFFICIAL(S) WHO WERE ASSIGNED TO THIS MENTIONED AND STIPULATED ABOVE HOUSING AREA.

5. HOWEVER PLAINTIFF GARCIA FURTHER CONTENTS THAT HE HAS PREVIOUSLY ESTABLISHED RELEVANT PROOF AS TO HIS ORIGINAL GRIEVANCES BEING INSTITUTED ON THE 10TH DAY OF JUNE 2011, INWHICH IT WAS NOT ACT KNOWLEDGE BY THE GRIEVANCE COMMITTEE.

6. PLAINTIFF GARCIA FURTHER STATES THAT HE INSTITUTED HIS GRIEVANCE ON THE 13TH DAY OF JUNE 2011 FOR THE THIRD TRY INWHICH IT WAS NOT ACT KNOWLEDGE BY THE GRIEVANCE COMMITTEE UNTIL THE 20TH DAY OF JUNE 2011.

7.

PLAINTIFF GARCIA CONTENDS THAT UPON GOING TO HIS INSTITUTIONAL HEARING ON THE 13TH DAY OF JUNE 2011 PLAINTIFF GARCIA WAS RECOGNIZED WITH BLOOD STAINS BLOTTED AROUND HIS EYES BY THE LIEUTENANT KELLY WHO HAD BEGAN TO COMMENCE PLAINTIFF GARCIA INSTITUTIONAL HEARING BUT INSTEAD, SUGGESTED TO HAVE HIM TAKEN TO MEDICAL.

8.

PLAINTIFF GARCIA FURTHER STATES THAT BECAUSE HE WAS SOLELY SEEN BY MEDICAL ON THE 13TH DAY OF JUNE 2011. AND IN WHICH HE WAS NOT SEEN BY MEDICAL RELEVANTLY RELATING TO THE DAY OF THE INCIDENT OF HIS INJURIES, PLAINTIFF GARCIA WAS REJECTED BY HIS GRIEVANCE COMPLAINT BEING NOT TIMELY AND APPROPRIATE TO HIS CLAIM.

SEE EXHIBIT (B)
ATTACHMENT(S) OF
MULTIPLE GRIEVANCES

D. Facts: _____

What happened to you?

Who did what?

Was anyone else involved?

Who else saw what happened?

III. Injuries:

If you sustained injuries related to the events alleged above, describe them and state what medical treatment, if any, you required and received. PLATJEEF GARCIA

SUSTAINED MULTIPLE ABRASION TO HIS BODY AND BOTTED BLOOD STAINS TO HIS FORE HEAD AREA ASWELL ALSO ABRASIONS TO HIS RIGHT EYE.

IV. Exhaustion of Administrative Remedies:


The Prison Litigation Reform Act of 1995, 42 U.S.C. § 1997e(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted." Administrative remedies are also known as grievance procedures.

A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?
Yes 1 No —

4. PLAINTIFF GARCIA FURTHER MORE STATES THAT THEREAFTER RELATING ON THIS 10TH DAY OF JUNE 2011, PLAINTIFF - GARCIA INSTITUTED HIS GRIEVANCE COMPLAINT ON THE SAME DAY AFTER BEING BRUTELY BEATEN BY CORRECTIONAL SGT [REDACTED] R. FURNIA AND OTHER CORRECTIONAL OFFICIAL(S) WHO WAS AT PLAINTIFF GARCIA CELL# LOCATION, LOCATED AT E-1 COMPANY CELL# 21 ADMINISTRATIVE PUNITIVE SEGREGATION KEEP LOCK UNIT) IS WERE PLAINTIFF GARCIA WAS LEFT RE-MAINING INSIDE OF HIS CELL# FOR THREE DAYS DELIBERATELY BEING - DEPRIVED MEDICAL ASSISTANCE BY OTHER CORRECTIONAL OFFICIAL(S) WHO WERE ASSIGNED TO THIS MENTIONED AND STIPULATED ABOVE HOUSING AREA.

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6. PLAINTIFF GARCIA FURTHER STATES THAT HE INSTITUTED HIS GRIEVANCE ON THE 13TH DAY OF JUNE 2011 FOR THE THIRD TRY IN WHICH IT WAS NOT ACT KNOWLEDGE BY THE GRIEVANCE COMMITTEE UNTIL THE 20TH DAY OF JUNE 2011.

 STATE OF NEW YORK DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION	Grievance Number CL-61210-11	Disg./Code 1/49	Date Filed 6/20/11
	Associated Cases		
	Facility Clinton Correctional Facility		
INMATE GRIEVANCE PROGRAM CENTRAL OFFICE REVIEW COMMITTEE	Title of Grievance Assault By Staff		

10/5/11

GRIEVANT'S REQUEST UNANIMOUSLY ACCEPTED IN PART

Upon full hearing of the facts and circumstances in the instant case, the action requested herein is hereby accepted only to the extent that CORC upholds the determination of the Superintendent for the reasons stated.

CORC notes that the facility administration has conducted a proper investigation. Sgt. F... and CO F... deny assaulting the grievant on 6/9/11, and it is noted that he did not report any injuries until 6/13/11. Only superficial abrasions were noted, and CORC has not been presented with sufficient evidence to substantiate any malfeasance by staff.

Further, the grievant was issued a MBR for his actions, the facts and circumstances of which were reviewable at the disciplinary proceedings and upon appeal.

With regard to the grievant's appeal, CORC notes that the investigation was conducted in accordance with Directive #4040.

RAL/cl

This document has been electronically signed by Karen R. Bellamy

To: Inmate Grievance Program Supervisor

7/8/11

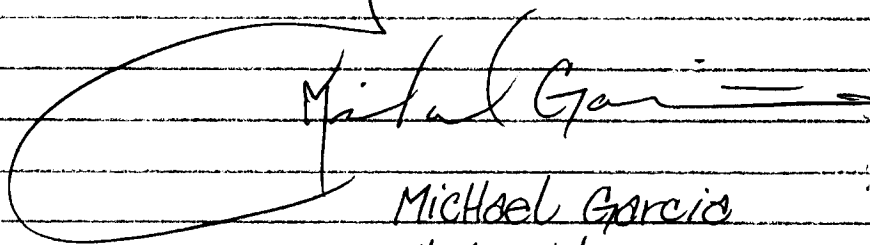
From: Michael Garcia # 04-A-1214 E-1-21

Subject: Filed Grievance

I Michael Garcia #04A1214 am Humbly Requesting your assistance on obtaining information on a Grievance I wrote on June 13, 2011 & Filed on June 20. The Grievance complaint CL # 61210-11. I have not received any response from anyone at Grievance of the matter being Investigated.

Any & All Help on this matter will be greatly appreciated.

Respectfully



Michael Garcia

04-A-1214

E Block-1-21

CL-61210-11 "Alleged assault" filed 6-20-11 currently pending a response from the Superintendent.

To: whom it may concern
At: Grievance

JUNE. 10, 2011

I Michael Garcia 04-A-1214 am notify you on a situation that transpir on June. 9, 2011, I was taken to E-Block by Sgt. R. Furnia & other officer for Disciplinary action & Before I was taken to my cell E-1-21 I was attack by Sgt. Furnia & other officers. I've been horass by Sgt. Furina on several occasions he was very upset due to the results of two other ticket I received at this facility. The misbehavior report for June. 9, 2011 is clearly for retaliation purpose. I Requested medical attention, the Sgt. & other officers refused my request. I humbly request that this incident be investigated.

Any & All Help on this matter will be greatly appreciated.

Respectfully

Michael Garcia
Michael Garcia
04-A-1214
E-1-21

CL-61210-11

(49) alleged assault

To: whom it may concern;
at: Grievance

DATE FILED June 13, 2011

JUN 20 2011

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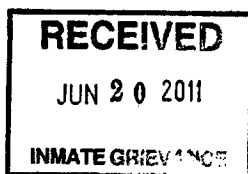
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Michael Garcia

Michael Garcia

04-A-1214

E(BLOCK)-1-21

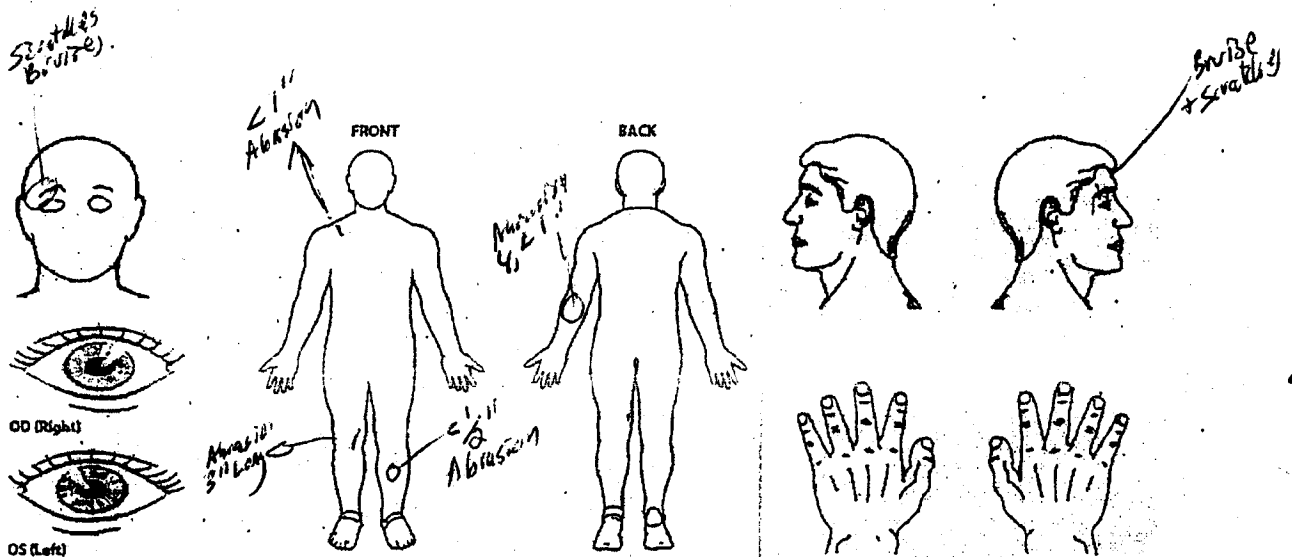


FORM 1595 (07/10)

STATE OF NEW YORK - DEPARTMENT OF CORRECTIONAL SERVICES

INMATE INJURY REPORT

Facility CCF	Date of Injury 6-13-11	Time of Injury 12 PM - 1 PM	Location Injury Occurred E-3 Corridor Flat
Inmate Name Garcia, Michael	DIN 04A1214	Housing location E-1-21	
What was cause of inmate's injury? Alleged Assault by Staff			
Inmate's statement: "I was punched and kicked by a Sgt and some COs."			
Inmate's Signature <i>[Signature]</i>			Date 6-13-11
Witnesses			
Reporting Employee Bob Fitzgerald		Title RN II	
FACILITY HEALTH SERVICE REPORT			
Date injury reported: 6-13-11	Time: 8:35 AM	Description of injury: 124 NUS: WNL	
Inmate has superficial abrasions on legs Above (R) eye Behind Left Elbow			
Noted Below			



Date of medical examination: 6-13-11	Time: 8:35 AM
Services Provided: Snelling Exam (L) 20/40 (R) 20/40 uncorrected 0 c/o Visual Impairment - wears glasses OTC Tylenol	
Was inmate admitted to facility infirmary? <input type="checkbox"/> YES <input type="checkbox"/> NO	Outside hospital? If yes where? <input type="checkbox"/> YES <input type="checkbox"/> NO
PCP on site evaluation? <input type="checkbox"/> YES <input type="checkbox"/> NO	Telemed Evaluation? <input type="checkbox"/> YES <input type="checkbox"/> NO
Name and title of person furnishing treatment at facility: [Signature] R Fitzgerald RN II	
Signature	Title

This form is to be forwarded to the Fire & Safety Officer within 24 hours for review and filing.

White - Medical Chart

Yellow - Fire & Safety

*Attach a memorandum if additional information is needed for the description of injury.


Hosp./4

3105A3 (9/09)

STATE OF NEW YORK - DEPARTMENT OF CORRECTIONAL SERVICES
AMBULATORY HEALTH RECORD PROGRESS NOTE

Name	GARCIA, M	DIN	04A1214	Date of Birth		Facility Name	
Subjective:	ms chest x ventral			Last Name			
Objective:				DIN	Location 1E28		
Assessment:				Date	1/3/10		
Plan:				Time			
				Provider Orders:			
Assessment: normal				① Cold ce 200 ODX wk			
				Plan: Rx x 6			
				② meta mnt i/fusion in Hrd			
Signature/Provider #				RN Transcribing Order/Provider #/Date/Time			
Subjective:	Alledge Assault by Staff on			Last Name	Garcia		
Objective:				DIN	04A1214		
Assessment:				Date	6-13-11		
Plan:				Time			
				Provider Orders:	Tylenol OTC		
multiple superficial Abrasions Leg, Elbows and on Shoulder + bruise Abrasion on R eye brow swelling uncorrected				bP 124/80 N.V.S. WNL A+04			
Signature/Provider #				RN Transcribing Order/Provider #/Date/Time			
Subjective:				Last Name			
Objective:				DIN	Location		
Assessment:				Date	Time		
Plan:				Provider Orders:			
Signature/Provider #				RN Transcribing Order/Provider #/Date/Time			

Continue entry into next box if necessary.

 <p>STATE OF NEW YORK DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION</p>	Grievance Number CL-61210-11	Desig./Code I/49	Date Filed 6/20/11
	Associated Cases		
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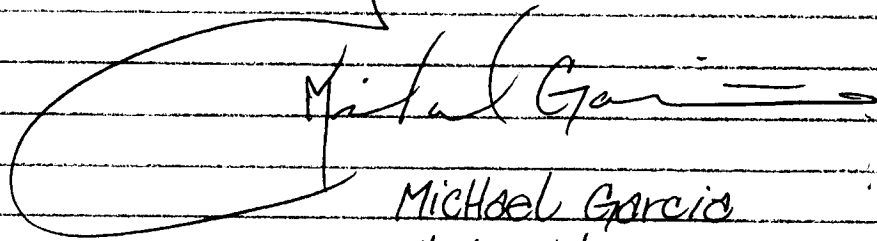
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Any & All Help on this matter will be greatly appreciated.

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04-A-1214
E Block-1-21

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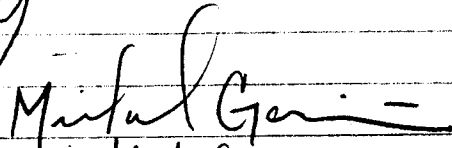
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CL-61210-11

(49) alleged assault

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DATE FILED June 13, 2011

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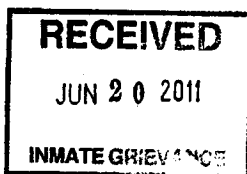
"Respectfully"

Michael Garcia

Michael Garcia

04-A-1214

E(BLOCK)-1-21



PLAINTIFF GARCIA FURTHER SUPPORTS HIS CLAIM
RELEVANTLY TO CASE LAW, LEGAL ARGUMENT.

PLAINTIFF GARCIA STATES THAT HIS CONSTITUTIONAL
RIGHTS WERE CLEARLY VIOLATED UNDER THE 8TH -
AMENDMENT REGARDS CRUEL, UNUSUAL PUNISHMENT
THAT WAS ESTABLISHED AGAINST PLAINTIFF GARCIA
BY CORRECTIONAL ^{SGT} [REDACTED] R. FURNIA, OTHER -
CORRECTIONAL OFFICIAL WAS UNSUSTAINED
INFLECTION THAT ESTABLISH LIABILITY.
SEE TERRY EX REL. TERRY V. HILL, 232
F. Supp. 2D 934, 943-44 (E.D. ARK 2002)

PLAINTIFF GARCIA CONTENDS THAT HE PREVIOUSLY
STIPULATED WITHIN HIS COMPLAINT UNDER THIS
CIVIL RIGHT ACT, 42 U.S.C. 1983 BEING RELEVANT
TO HIS PHYSICAL ASSULT AS WELL ALSO STIPULATING
DELIBERATE INDIFFERENCE AS TO BEING DEPRIVED
MEDICAL ASSISTANCE UNTIL PLAINTIFF GARCIA WAS
BROUGHT OUT OF HIS [REDACTED] CELL LOCATION FOR THE
SOLE PURPOSE DUE TO HIS INSTITUTIONAL HEARING.
PLAINTIFF GARCIA SUFFERED AND SUSTAINED MULTIPLE
MEDICAL INSURIES, IN WHICH HE SHOULD NOT HAVE
BEEN SUBJECTED AT ALL TO CORRECTIONAL ^{SGT} [REDACTED]
R. FURNIA, AND OTHER CORRECTIONAL OFFICIAL -
PHYSICAL BRUTALITY OF ASSULT REGARDLESS TO
PLAINTIFF GARCIA RECEIVING MEDICAL TREATMENT
OR/NOT.

(SEE) WAT FORD V. BRUCE, 126 F. Supp.
2D 425, 427 (E.D. VA. 2001)